

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
TYLER DIVISION**

FRANCISCO DURAN,

Plaintiff,

v.

KENNETH PUTNAM, TODD FUNAI,  
DARREN LANE, and DALE  
WAINWRIGHT,

Defendants.

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Case No. 6:20-cv-00626-JDK

**ORDER OF DISMISSAL**

Plaintiff Francisco Duran, an inmate confined at the Coffield Unit within the Texas Department of Criminal Justice (TDCJ) proceeding *pro se*, filed this civil rights action pursuant to 42 U.S.C. § 1983.

On December 28, 2020, Plaintiff filed a notice stating that he never filed the instant action, has no knowledge of it, and wishes it dismissed. Docket No. 5. The Court construes Plaintiff's request as a notice of a voluntary dismissal pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(i). Rule 41(a)(1)(A)(i) provides that a plaintiff may dismiss an action without a court order by filing "a notice of dismissal before the opposing party serves either an answer or a motion for summary judgment."

In the instant action, no answer or motion for summary judgment has been filed and Plaintiff wishes to voluntarily dismiss his case. Docket No. 5. The Court has considered this request and determined that it should be granted. Accordingly, it is **ORDERED** that Plaintiff's filing (Docket No. 5) is construed as a notice for a voluntary dismissal and that the above-styled civil rights proceeding is hereby **DISMISSED** without prejudice.

**So ordered and signed on this**

Jan 7, 2021

A handwritten signature in black ink, reading "Jeremy D. Kernodle", written over a horizontal line.

JEREMY D. KERNODLE  
UNITED STATES DISTRICT JUDGE